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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,422	08/31/2001	John Joseph DiEnno	9D-DW-19893	7785

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EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,422

Applicant(s)

DIENNO ET AL.

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 3,6 and 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments and amendments to the claims, filed January 19, 2006, with respect to the rejection(s) of claim(s) 1, 2 & 7-9 under 102(b) as being anticipated by Kobos et al., have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, new grounds of rejections are put forth as outlined below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-2, 4-5 & 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1, it is not clear how "a plurality of formations [deemed to correspond to element 210] downwardly depending from the lower edge" can define a "retaining slot" in view of the fact that the formations are earlier defined as being part of "a lower edge" of the control panel mounting surface". Accordingly, it is not clear as to how formations depending from an edge that are part of a control panel mounting surface can define a "slot" that is "configured to receive an upper edge of a panel on a door" as depicted in figure 5 for example. It is clear from the figure that both elements (228) and (230) combine to form a "retaining slot" that is capable of receiving an edge of a panel, but it is not clear how element (230) could be construed as being on the control panel mounting surface [It appears to be offset and distinct from the surface, yet a portion of the escutcheon.]. As to Claim 2, it is not clear how "positioning ribs" would define a "retaining slot" in

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view of the remarks put forth above. As to Claim 4, it is not clear how the ribs comprise a guide surface extending at an “acute angle” [it is noted that the term “acute” as added to the claim in the amendments on 4/20/04] since the position is taken that the “lower edge” is sufficiently vague and broad in usage and may define any lower portion of the control panel mounting surface. Defining the outer surface of element (176) as denoted in fig. 5, the case can be made that the angle would be obtuse when measured perpendicularly from the surface to the “guide surface”. As to claim 7, it is not clear how “a plurality of formations depending from the lower edge” can define a “retaining slot” for the same reason as noted above. Furthermore, Claim 8, reinforces the examiners interpretation of the claimed structure in the remarks as put forth since this claim further recites a lip, and that the slot is “defined by said guide surface and said lip” where the guide surface is a portion of each formation. Accordingly, the examiner’s position is that the “retaining slot” must be defined by the combination of a lip (228 e.g.,) and rib (212 e.g.,). It is noted that this position was advanced in the preceding Office Action under the “Remarks to Arguments” Section and is now being pursued due to a lack of response from applicant concerning this issue. Consequently, the remaining claims are rejected since they are dependent upon an indefinite claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1, 2, 4, 5 & 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Gardell et al., [U.S. Patent No. 4,765,697]. As to claims 1, 2, 4 & 5, Gardell (figures 1-6) teaches of an "escutcheon" (as shown in fig. 2 to the bottom-right of element (28) for an appliance door assembly, the escutcheon comprising: a front edge (bottom as depicted in fig. 4) and a rear edge (top as depicted in fig. 4) horizontally spaced (horizontal when the door is in the closed position (vertically closing the front of the appliance) from the front edge, the front and rear edges vertically depending from an escutcheon upper surface (right as depicted in fig. 4); a control panel mounting surface (opposite face of the "escutcheon" as depicted in fig. 2) comprising a lower edge (viewed as the edge near (78)), the control panel mounting surface extending upwardly and inwardly (inwardly in the sense that many portions of the control panel mounting surface are inwardly directed – fig. 2) from the lower edge and between the front and rear edges, the control panel mounting surface including a plurality of openings there through (viewed as the inherent openings for the application of knobs/dials etc); and a plurality of formations (viewed as the two formations to the left of (78) as depicted in fig. 4) downwardly depending (such as when the door is in the vertical orientation) from the lower edge and defining a retaining slot (slot between the two), the retaining slot capable of receiving an upper edge of a panel on the appliance door (note fig. 4). As to Claim 2, the formations are now called panel positioning ribs. As to Claim 4, the ribs comprise a guide surface (viewed as the inner surface of the outer rib and the outer surface of the inner rib) extending at an acute angle [viewed as "acute" depending upon the portion of the edge that is being viewed] in as much as applicant defines the claimed limitation as best understood by the examiner (note 112 (2) rejection above) with the lower edge. As to claim 5, the ribs comprise a panel

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engagement portion extending from the guide surface (may be viewed as the ends of the ribs so far as broadly recited). As to claims 7-9, Gardell teaches applicants "escutcheon" as note above including the lower edge (viewed as the edge near (78)), and a plurality of formations (viewed as the two formations to the left of (78) as depicted in fig. 4) depending therefrom, each formation comprising a guide surface formed at an acute angle with said lower edge [see note above] in as much as applicant defines the claimed limitation as best understood by the examiner, the guide surfaces together defining a retaining slot (as previously noted), the guide surfaces each defining a panel engagement portion (fig. 4), and the retaining slot configured to receive an upper edge of a panel (28 e.g.,) on a door. The escutcheon further comprising a lip (viewed as the short outer formation – as best understood by the examiner with regards to the 112(2) rejections put forth), the slot defined by the guide surface of the long inner formation and the lip, wherein the panel engagement portion extends substantially parallel to the lip (note fig. 4).

6. Claims 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Sulcek [U.S. Patent No. 3,773,399]. Sulcek (figures 1-8) teaches of an "escutcheon" (47) for a door assembly [capable of use on a dishwasher door assembly], the escutcheon comprising a lower edge (viewed as the edge in the corner of (47) as shown in Fig. 4 and located above the area referenced as element (52)) and a plurality of formations (50, 51) depending therefrom, each formation comprising a guide surface (inner surface of 50 and outer surface of 51) formed at an acute angle with said lower edge [viewed as "acute" depending upon the position of the corner where the edge is defined] in as much as applicant defines the claimed limitation as best understood by the examiner, the guide surfaces together defining a retaining slot (note fig. 4 e.g.),

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the guide surfaces each defining a panel engagement portion (fig. 4), and the retaining slot configured to receive an upper edge of a panel (13 e.g.) on a door. The escutcheon further comprising a lip (viewed as the outer formation (50) – as best understood by the examiner with regards to the 112(2) rejections put forth), the slot defined by the guide surface of (51) and the lip, wherein the panel engagement portion extends substantially parallel to the lip (note fig. 4).

Conclusion

7. While it is noted that Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The ambiguity concerning the “retaining slot” and what elements actually are positively being claimed to define this slot still remained. Consequently, this issue is addressed in the pending 112(2) rejections wherein the issuance of a Final action is deemed premature.

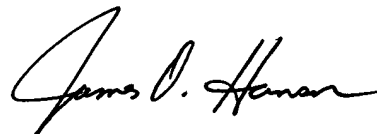
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schimke, and Fleissner et al., disclose “escutcheon's” for household appliances.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
October 17, 2006